

Article 1: Public Improvement and Assessment Proceedings**Division 18: San Diego Parking and Business
Improvement Area Procedural Ordinance**

*(“San Diego Parking and Business
Improvement Area Procedural Ordinance”
added 3–31–1970 by O–10257 N.S.)*

§61.1800 Purpose and Intent

The purpose and intent of this division is to establish a method of providing funds for acquisition by lease or purchase of public off–street parking facilities and structures designed to serve and be of benefit to the area so established through creation of one or more parking and business improvement areas. This method is not exclusive. The division incorporates the Parking and Business Improvement Area Law of 1965. (California Streets and Highways Code, Sections 36000 et seq.) It also supplements the 1965 law with certain other provisions. In any case of conflict between this division and the law incorporated herein, the language of this division controls. (*“Purpose and Intent” added 3–31–1970 by O–10257 N.S.*)

§61.1801 Implementation

It is contemplated that one method of accomplishing the purpose set forth in Section 61.1800 hereof will be the leasing by City of facilities and structures from the Parking Authority of The City of San Diego. (*“Implementation” added 3–31–1970 by O–10257 N.S.*)

General Provisions and Incorporations

(Editors note: Chapter 6, Article 1, Division 18 added 8–24–1988.)

§61.1802 Citation of Division

This division may be cited as the San Diego Parking and Business Improvement Area Procedural Ordinance. (*“Citation of Division” added 3–31–1970 by O–10257 N.S.*)

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§61.1803 Rules of Construction

This division shall be liberally construed in order to effectuate its purposes. No error, irregularity, informality and no neglect or omission of any officer, in any procedure taken under this division which does not directly affect the jurisdiction of the Council to order the work or improvement, shall void or invalidate such proceeding or any assessment or the cost of the work done thereunder. The exclusive remedy of any person affected or aggrieved thereby shall be by appeal to the Council in accordance with the provisions of this division and so much of said Law as may be incorporated herein.

(“Rules of Construction” added 3–31–1970 by O–10257 N.S.)

§61.1804 Incorporation of the Parking and Business Improvement Area Law of 1965

The Parking and Business Improvement Area Law of 1965, herein called “said Law,” is hereby adopted and referred to and made part of this division with the same force and effect as if specifically set forth in full with the additions, deletions and changes as may be herein set forth.

(“Incorporation of the Parking and Business Improvement Area Law of 1965” added 3–31–1970 by O–10257 N.S.)

§61.1805 Application of this Division

- (a) The additional powers and procedures established by this division shall apply and be used only where the uses, as referred to in Section 36021 (c) and Section 36025 (g) of said Law, to which the additional revenue derived from the proceeds of the ad valorem assessment hereinafter mentioned shall be put, are stated to be, and are limited to the acquisition by lease or purchase of public off–street parking facilities and structures designed to serve and to be of benefit to the area established. In the proceedings any description of the uses which is substantially in accordance with the foregoing shall be valid.
- (b) In the proceedings for the establishment of a parking and business improvement area under said Law, provisions may be made for the levy and collection of an annual ad valorem assessment upon the taxable real property located within the area, for the allowance of annual credits against the annual ad valorem assessments levied, and for the allowance of similar credits against the additional business license taxes levied.

(“Application of this Division” added 3–31–1970 by O–10257 N.S.)

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§61.1806 Division Superior

The provisions of this division shall be controlling to the extent that they are in conflict with any of the provisions of said Law.

(“Division Superior” added 3–31–1970 by O–10257 N.S.)

§61.1807 Nonexclusiveness of Division

This division is not exclusive. The Council shall have the power to adopt other procedures or to follow procedures now in effect and hereinafter provided for or prescribed by the General Laws of the State. The procedures set forth herein are alternative to any other procedure established by ordinance or by the General Law.

(“Nonexclusiveness of Division” added 3–31–1970 by O–10257 N.S.)

§61.1808 Incorporation Effect

When provisions of the General Law or acts are incorporated in this division, such incorporation shall be interpreted to mean the wording of the General Law or acts then in effect at the time the Council adopts the resolution declaring its intention to form a parking district under this division unless the Council shall provide otherwise.

(“Incorporation Effect” added 3–31–1970 by O–10257 N.S.)

§61.1809 Definition of Ordinance

Wherever the term “ordinance” is used in said Law or the General Law, it shall be interpreted to mean resolution.

(“Definition of Ordinance” added 3–31–1970 by O–10257 N.S.)

§61.1810 Severability Clause

If any section or part of this division be, for any reason, held unconstitutional or invalid by a court of competent jurisdiction, that holding shall not affect the validity of the remaining portions of this division, but such remaining portion shall be and remain in full force and effect.

(“Severability Clause” added 3–31–1970 by O–10257 N.S.)

Modification of Provisions of Said Law

(Editors note: Chapter 6, Article 1, Division 18 added 8-24-1988.)

§61.1811 Initiation of Proceedings by Council

The Council may initiate proceedings under this division for the formation of an area by adopting a resolution to establish such area. Such procedure may be initiated even though no petition or inadequate petitions have been received from the owners of assessable land within the proposed area.

(“Initiation of Proceedings by Council” added 3-31-1970 by O-10257 N.S.)

§61.1812 Resolution of Intention — Contents

In cases where the additional powers and procedures established by this division are used, the resolution of intention to establish an area, in addition to the matters specified in Section 36021 of said Law, shall contain:

- (a) A statement that it is proposed to provide for the levy and collection of an annual ad valorem assessment upon taxable real property located within the area;
- (b) The proposed uses to which the proceeds of the ad valorem assessment shall be put;
- (c) The proposed limit, if any, on the rate of the ad valorem assessment which shall be expressed in terms of a dollars and cents rate upon each one hundred dollars of assessed valuation of the taxable real property;
- (d) The proposed limit, if any, on the number of years during which such ad valorem assessment may be levied;
- (e) A general statement of the proposed credits, if any, which will be allowed annually against the ad valorem assessment levied; and
- (f) A general statement of the proposed credits, if any, which will be allowed annually against the additional business license taxes levied.

(“Resolution of Intention — Contents” added 3-31-1970 by O-10257 N.S.)

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§61.1813 Notice

In addition to the notices prescribed by Section 36022 of said Law, notice of the hearing shall be given by mailing a copy of the resolution of intention to each person to whom taxable real property in the proposed area is assessed as shown on the last equalized county assessment roll, at his address as shown on said roll, and to each person having any interest in any taxable real property in the proposed area whose name and address and a designation of the land in which he is interested is on file in the office of the City Clerk. Such mailing shall be completed at least ten days prior to the hearing.

(“Notice” added 3–31–1970 by O–10257 N.S.)

§61.1814 Majority Protest

In addition to the majority protest provision contained in Section 36023 of said Law, the proceedings, insofar as they relate to the levy and collection of an ad valorem assessment, shall terminate if, prior to the hour fixed for hearing, written protest has been filed with the City Clerk by owners of taxable real property in the proposed area having an assessed valuation of more than one-half of the total assessed valuation of all taxable real property in the proposed area. Any written protest made under said Section 36023 or under this section may be withdrawn in writing at any time before a determination is made as to whether or not a majority protest exists and a written protest so withdrawn shall not be counted in determining whether or not a majority protest exists under Section 36023 or under this section.

(“Majority Protest” added 3–31–1970 by O–10257 N.S.)

§61.1815 Changes of Boundaries — Continuance of Hearing

At the hearing the City Council may change the boundaries of the proposed area, the rate or amount of additional business license tax, the limit on the rate of ad valorem assessment, the limit on the number of years during which it may be levied, or the credits to be allowed against the ad valorem assessment or additional business license tax or both. Any such change shall be made in the manner prescribed in Section 36024 of said Law and upon the notice prescribed in Section 36022 of said and Section 61.1813 herein.

(“Changes of Boundaries — Continuance of Hearing” added 3–31–1970 by O–10257 N.S.)

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§61.1816 Establishment of Area

After a resolution of intention to establish an area has been adopted as required by and in compliance with the provisions of said Law and this division, the Council shall adopt a resolution establishing said area.

(“Establishment of Area” added 3–31–1970 by O–10257 N.S.)

§61.1817 Resolution Establishing Proposed Area — Contents

In cases where the additional powers and procedures established by this division are used, the resolution establishing the area, in addition to the matters prescribed by Section 36025 of said Law, shall contain:

- (a) Provision for the levy and collection of an annual ad valorem assessment upon the taxable real property located within the area;
- (b) The uses to which the proceeds of the ad valorem assessment shall be put;
- (c) The limits, if any, on the rate of ad valorem assessment and the years during which it may be levied;
- (d) A statement of the annual credits, if any, which will be allowed against the ad valorem assessment levied or against the additional business license taxes levied, or both; and
- (e) A statement of the procedure to be used in computing, claiming, allowing and effectuating any credits to be allowed.

(“Resolution Establishing Proposed Area — Contents” added 3–31–1970 by O–10257 N.S.)

§61.1818 Additions to Area

The resolution establishing the area may also provide a method whereby additional real property may be later annexed to and included within the area with the consent of the owner thereof and the terms and conditions applying to any such inclusion. Such provisions may include a requirement that as a condition to such inclusion, the owner must pay to the City all or a prescribed portion of the prior ad valorem assessments which would have been levied upon the property, and the prior additional business

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license taxes which would have been payable by the business located thereon (taking into account credits which would have been allowed) if the real property had been part of the area upon its initial establishment.

(“Additions to Area” added 3–31–1970 by O–10257 N.S.)

§61.1819 Assessed Value

For all purposes, “assessed value” wherever used or referred to under this division and said Law shall mean the total assessed value of both land and improvements.

(“Assessed Value” added 3–31–1970 by O–10257 N.S.)

§61.1820 Taxable Real Property

The term “taxable real property” as used in this division means land and improvements on land which are subject to general ad valorem property taxes levied by the City.

(“Taxable Real Property” added 3–31–1970 by O–10257 N.S.)

§61.1821 Levying and Collecting Assessment

Unless the resolution establishing the area, as originally adopted or as later amended, provides otherwise, all ad valorem assessments levied under the authority of this division shall be levied, collected and enforced in the same manner, at the same times, and with the same penalties and interest as in the case of general ad valorem property taxes levied by the City. If the City is unable to provide a system whereby the applicable credits against the ad valorem assessment will be reflected upon and deducted from the tax bills, the City Council shall provide by resolution a procedure under which the amount of the credit will be refunded promptly to the person who paid the assessment.

(“Levying and Collecting Assessment” added 3–31–1970 by O–10257 N.S.)

§61.1822 Filing of Area Boundaries

When an area has been established with provision made for the levy and collection of an annual ad valorem assessment, the City Clerk shall immediately file with the County Assessor of San Diego County and with the State Board of Equalization a statement of such establishment setting forth the local description of the boundaries of such area, together with a map or plat indicating such boundaries, all as required by Section 54900 et seq. of the Government Code.

(“Filing of Area Boundaries” added 3–31–1970 by O–10257 N.S.)

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§61.1823 Disposal of Area Property

The Council may sell or lease any property acquired for business and improvement area purposes, including property acquired for business and improvement area purposes by the Parking Authority of The City of San Diego and transferred to the City, whenever it has determined that the property is no longer needed for that public use. Before making such determination, the Council shall hold a public hearing thereon and shall give notice of such hearing published pursuant to Section 6061 of the Government Code in a newspaper circulated in the City at least ten (10) days before such hearing. The notice shall contain a general description of the property as to which the determination is proposed to be made. The determination shall not be made if prior to the hour fixed for the hearing the owners of more than one-half of the area of the lands within the district have filed with the City Clerk written objections to the proposed determination.

The proceeds of such sale or lease shall be used for only the following purposes and in the following order of priority:

- (a) For the purchase of other off-street parking places within the district, or for the improvement, addition or extension of existing parking places in the district.
- (b) For making refunds to the then owner of each parcel of real property included within the district and which has been assessed in the proportion which the total assessment levied upon such parcel bears to the total of all such assessments. The aggregate amount of any such refund, however, shall in no event exceed the total payments made by such owner or his predecessor in interest on any assessment or reassessment levied in proceeding taken under this division and creating such district. Any such proceeds remaining after the appropriate distribution shall be credited to the General Fund of The City of San Diego.

(“Disposal of Area Property” added 3-31-1970 by O-10257 N.S.)